

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Inquiry Concerning the Deployment of Advanced)	
Telecommunications Capability to All Americans)	CC Docket No. 98-146
In a Reasonable and Timely Fashion, and Possible)	
Steps to Accelerate Such Deployment Pursuant to)	
Section 706 of the Telecommunications Act of 1996)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby submits its Comments to the Commission's Third Notice of Inquiry (the "NOI"), released in the above referenced docket on August 10, 2001, as FCC 01-223. In these Comments, Sprint demonstrates that advanced services are in fact being deployed to Americans in a reasonable and timely fashion. In addition, the Commission can further encourage such deployment by taking measures that promote competition among the providers of high-speed services. Such measures include enforcing regulations that maintain open networks for the wholesale provision of high-speed services. Once the wholesale markets are properly opened, the Commission may ease regulation of retail high-speed services to allow retail markets to operate freely.

I. INTRODUCTION

Section 706(b) of the Telecommunications Act of 1996 requires the Commission to determine whether "advanced telecommunications capability¹ is being deployed to all

¹ As used herein, "advanced telecommunications capability" and "advanced services" shall mean the capability of supporting a bandwidth in excess of 200 kbps in each direction in the last mile. "High-speed services" are those services that are capable of exceeding 200 kbps in at least one direction. These definitions are consistent with those used by the Commission in the NOI and previous NOIs.

Americans in a reasonable and timely fashion."² Section 706(a) requires the Commission, and each State commission, to encourage the deployment on a reasonable and timely basis of advanced services for all Americans by, among other things, regulatory forbearance and measures that promote competition in the local telecommunications market.

In the NOI, the Commission requested comment on several aspects of its analysis of advanced service deployment. Specifically, the Commission sought comment on its definitions of advanced and high-speed services, and its use of certain descriptive terms, including network infrastructure components and various forms of high-speed service.³ Sprint has no changes to offer on these points. The Commission's current positions are practical and useful. In the pages below Sprint offers its comments on two specific issues: whether advanced services are being deployed to all Americans in a reasonable and timely fashion, and what the Commission and State commissions can do to further encourage such deployment.

II. ADVANCED SERVICES ARE BEING DEPLOYED TO ALL AMERICANS IN A REASONABLE AND TIMELY FASHION?

Advanced services are clearly being deployed to Americans in a reasonable and timely fashion. According to data aggregated from FCC Form 477s by the Industry Analysis Division of the Common Carrier Bureau, as of December 2000, 75% of the nation's zip codes contained subscribers to high-speed services. These zip codes were home to over 96% of the American population. Thus, 96% of Americans reside in zip codes where high-

² Public Law 104-104, 110 Stat. 56 (1996), also cited as 47 U.S.C. §157 nt.

³ See NOI at ¶¶5-7.

speed services are available as of December 31, 2000.⁴ Given the relatively nascent status of this technology, these figures indicate a deployment that is not just reasonable and timely, but truly impressive.

Further, the deployment of high-speed services is extending to all Americans, both urban and rural, in a reasonable and timely fashion. There was at least one high-speed subscriber in 98% of the most densely populated zip codes (more than 3147 persons per square mile) in December 2000. However, even in the least populated zip codes, containing fewer than six people per square mile, high-speed services were available in 37% of these zip codes in December 2000, doubling the percentage of low density zip codes from just one year earlier.⁵ Nearly 80% of zip codes in small towns had some form of high-speed service available as of December 2000, up from 57% in the prior year.⁶ These trends in rural areas are obviously encouraging.

While it would be inaccurate to suggest that every American currently has access to advanced service capability, the question at issue in the NOI and Section 706 is not whether this capability *has been* deployed, but rather whether the capability *is being* deployed in a reasonable and timely fashion. The statistics leave no doubt that the answer is yes.

The number of high-speed lines in service also leapt from 2.8 million at year end 1999 to 7.1 million just one year later, an annual increase of 158%.⁷ While this is an impressive jump, the primary focus of the Commission's investigation should be on deployment, that is, the availability of high-speed services, rather than on actual subscribership levels. Subscribership is more of an indication of *demand* for this discretionary

⁴ *High-Speed Services for Internet Access: Subscribership as of December 31, 2000* (Ind. Anal. Div. Rel. August 10, 2001) ("December 2000 Report") at 4

⁵ *Id.* at Table 10.

⁶ NOI at ¶15.

⁷ *Id.* at Table 1.

service, and from an economic standpoint effective regulatory policy should not be designed to affect or promote the demand for a good or service. As an illustration of why subscribership is a flawed metric, data from TNS Telecom indicates that 40% of households have no computer at home and nearly 50% of households do not currently access the Internet from home.⁸ It would be unreasonable to expect customers who have not yet acquired a computer or online access to be interested in subscribing to high-speed services.

III. THE COMMISSION AND STATE COMMISSIONS CAN FURTHER ENCOURAGE THE DEPLOYMENT OF ADVANCED SERVICES BY SPURRING COMPETITION?

The most effective method for encouraging deployment of high-speed services is to spur competition in the provision of these services. The Commission should affirm and enforce regulations on the wholesale side in order to require ILECs to make appropriate network elements available to other carriers for the provision of advanced services. Upon satisfactory compliance with network-opening rules, the Commission should deregulate the retail side of high-speed services with regard to pricing, in order to allow the providers of high-speed service to freely compete. This strategy will ultimately result in increased benefits for the consumer.

A. THE COMMISSION SHOULD REQUIRE ILECS TO OPEN THEIR NETWORKS TO ALLOW COMPETING CARRIERS TO PROVIDE ADVANCED SERVICES.

To achieve the full benefits of a reasonable and timely deployment of advanced services, ILECs should be required to provide competing carriers access to the ILECs'

⁸ TNS Telecom, ReQuest Market Monitor Q1, 2001

networks. As previously stated by Sprint in other dockets, this includes access to packet switching as an unbundled network element, and the right to virtually collocate line cards in next generation digital loop carriers.⁹ Federal and State regulators must issue and/or actively enforce these rules in a manner that maximizes network availability, and not be persuaded by false arguments claiming that the opening of networks creates an environment in which LECs have no incentive to invest in infrastructure. While it is understandable that heretofore monopoly providers would prefer to avoid competition, it has been clearly demonstrated that these same providers will respond to customer demand for high-speed services regardless of regulatory requirements. Thus, demand will continue to drive the deployment of advanced services in a timely fashion. Competition will ensure that it occurs in a reasonable fashion.

**B. THE COMMISSION SHOULD REFRAIN FROM REGULATING
RETAIL ADVANCED SERVICES IN ORDER TO ALLOW THE
MARKET TO OPERATE FREELY.**

As set forth in sections III.A and III.B above, in the process of using competition to spur deployment of advanced services the Commission must first apply measures that promote competition in the provision of advanced services. Requiring ILECs to make their networks available and providing adequate spectrum will enhance competition among ILECs and CLECs. Once ILEC networks are sufficiently available, the Commission should allow retail pricing flexibility of advanced services. This will allow competitors to both make price changes and react to price changes in an efficient manner as market forces dictate.

⁹*In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, Sprint Comments (filed October 12, 2000) and Reply Comments (filed November 14, 2000).

Thus, the Commission can help to create a market where regulation will ensure open networks on the wholesale side, and price flexibility will maximize efficient pricing and competitive responses on the retail side. This combination will make consumers the winners. Wholesale regulation will provide consumers with choices, and retail forbearance will provide fair rates.

IV. CONCLUSION

Based on the information provided in the December 2000 Report on high-speed services, especially as compared to the same reports for December 1999 and June 2000, there is no doubt that advanced services are being deployed to all Americans in a reasonable and timely fashion. The Commission can further encourage such deployment by promoting competition in the provision of high-speed services. The Commission, and State commissions, should enforce regulations that maintain open networks for the wholesale provision of high-speed services. Once the wholesale markets are properly opened, the Commission may ease regulation of retail high-speed services to allow retail markets to operate freely.

Respectfully submitted,

SPRINT CORPORATION

By //s//
Jay C. Keithley
401 9th Street, NW, #400
Washington, DC 20004
(202) 585-1920

Rick Zucker
6360 Sprint Parkway, KSOPHE0302
Overland Park, KS 66251
(913) 762-1920